

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

HERBERT MANYGOAT,

Plaintiff,

vs.

No. CV 18-00340 JCH/KBM

FNU LNU,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court under Fed. R. Civ. P. 41(b) on the handwritten complaint filed by Plaintiff Herbert Manygoat on April 11, 2018 (Doc. 1). The Court dismisses the complaint without prejudice for failure to comply with a Court Order and failure to prosecute.

Plaintiff Manygoat filed his handwritten complaint on April 11, 2018. (Doc. 1). The filing is largely incomprehensible, but appears to possibly assert federal civil rights claims of disability or housing discrimination. (Doc. 1 at 4-6). Manygoat did not pay the filing fee or submit an application to proceed in this Court without prepaying fees and costs. On April 13, 2018, the Court entered its Order to Cure Deficiency. (Doc 2). The Court's Order noted that Manygoat's filing was deficient due to his failure to pay the filing fee or submit an application to proceed *in forma pauperis* and because his complaint was not in proper form. (Doc. 2 at 1). The Court ordered Plaintiff Manygoat to cure the deficiencies within 30 days and provided him with the appropriate forms for a civil rights complaint under 42 U.S.C. § 1983 and to proceed in the District Court under 28 U.S.C. § 1915. (Doc. 2 at 1-2).

Plaintiff Manygoat filed a response to the Court's Order to Cure Deficiency on May 2, 2018. (Doc. 4). In his response, Manygoat acknowledged receipt of the forms from the Court,

and claimed that he was being obstructed from filing the § 1915 forms and/or had sent the forms to the “Supreme Court of New Mexico there in ALBUQ N.M.” (Doc. 4 at 2). Manygoat also requested that the time limits for filing be extended until after he was acquitted on New Mexico state criminal charges. (Doc. 4 at 2-3). He then filed a motion for extension of time on May 9, 2018, claiming that he wanted to proceed on his claims, but did not want to file anything until he completed an August 2018 trial in a pending state criminal proceeding, No. D-1116-CR-2016-00984. (Doc. 7).

The Court takes judicial notice of the official docket in *State of New Mexico v. Herbert Manygoat*, No. D-1116-CR-2016-00984. *Shoulders v. Dinwiddie*, 2006 WL 2792671 (W.D.Okla.2006); *Stack v. McCotter*, 2003 WL 22422416 (10th Cir.2003) (unpublished opinion). On July 30, 2018, Manygoat entered into and the Court approved a Repeat Offender Plea and Disposition Agreement, pleading no contest to the charge of Attempted Aggravated Battery (Deadly Weapon). Judgment was entered and Manygoat was sentenced to a partially suspended sentence of time-served and released on October 19, 2018. D-1116-CR-2016-00984. Manygoat has not submitted a complaint in proper form, filed a § 1915 application to proceed, filed any papers, or communicated with the Court regarding this proceeding since May 9, 2018.

Pro se litigants are required to follow the federal rules of procedure, simple, nonburdensome local rules, and court orders. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Plaintiff Manygoat has failed to comply with the Court’s April 13, 2018 Order, and has failed to prosecute this case. Therefore, the Court will dismiss this

civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Orders and failure to prosecute.

IT IS ORDERED:

(1) Plaintiff Herbert Manygoat's Motion for Extension of Time (Doc. 7) is **DENIED** as moot; and

(2) the handwritten complaint filed by Plaintiff Herbert Manygoat (Doc. 1) is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b).


UNITED STATES DISTRICT JUDGE